

**Supporting Statement for
30 CFR Part 220, Accounting Procedures for Determining
Net Profit Share Payment for Outer Continental Shelf Oil and Gas Leases
(OMB Control Number 1010-0073)
(Expiration Date: August 31, 2002)**

A. Justification

1. What circumstances make this collection of information necessary?

The Secretary of the U.S. Department of the Interior (DOI) is responsible for collecting royalties from lessee who produce minerals from leased Federal and Indian lands. The DOI is required by various laws to manage minerals, collect royalties, and to distribute the funds in accordance with those laws.

The Minerals Management Service (MMS) performs the royalty management functions for the DOI. When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share of the value received for production from the leased lands. Royalty rates are specified in the lease instrument.

The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data reported to private and public mineral interest owners and is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to assure that the royalties are paid appropriately. The product valuation determination process is essential to assuring that royalty payments are based on the proper value of the minerals removed.

To encourage exploration and development of oil and gas leases on submerged lands of the Outer Continental Shelf (OCS), regulations were promulgated at 30 CFR 260.110(d) implementing a net profit share bidding system. The net profit share lease (NPSL) bidding system was established to properly balance a fair market return to the Federal Government for the lease of its lands, with a fair profit to companies risking their investment capital. The system provides an incentive for early and expeditious exploration and development and provides for a sharing of the risks by the lessee and the Federal Government. The bidding system incorporates a fixed capital recovery system as a means through which the lessee recovers costs of exploration and development from production revenues, along with a reasonable return on investment.

The Federal Government does not receive a profit share payment from an NPSL until the lessee shows a credit balance in its capital account; that is, cumulative revenues and other credits

exceed cumulative costs. The credit balance is multiplied by the net profit share rate (usually 50%), resulting in the amount of profit share or royalty that is due the Federal Government.

Lessees are required to maintain an NPSL capital account for each lease, which transfers to new owner(s) when sold. Lessees are also required to provide either an annual or monthly reports following the cessation of production using data taken from the capital account to the Federal Government. In addition, NPSL lessees must file a report after each inventory of controllable materiel. Further, when non-operators of an NPSL lease call for an audit, they must notify the MMS. When the MMS calls an audit, the lessee must notify all non-operators on the lease. These requirements may be found in 30 CFR 220.010, 220.031, and 220.033 (Attachment 1). This collection of information is necessary in order to determine when royalty payments are due and to determine the proper amount of payment.

2. How, by whom, and for what purpose will the information be used?

Under the NPSL bidding system, a notice of OCS lease sale is published in the Federal Register with a net profit share rate and a capital recovery factor (CRF) established for each tract within the sale. The regulations allow the lessee to inflate certain costs by multiplying those costs by the CRF. However, there is a period of time from which the lessee may take this allowance or the capital recovery period that begins with the issue date of the lease and ends when one of the following occurs:

- (1) The lessee completes the last well on the first platform specified in the development and production plan;
- (2) The balance in the capital account changes from a debit to a credit; or
- (3) The lessee chooses to terminate the capital recovery period.

During the capital recovery period, the lessee calculates a cost base consisting of allowable direct and allocable joint costs plus a 4 percent overhead allowance, less production revenues and other credits received during the month. This cost base is multiplied by the CRF established for the lease, resulting in the allowance for capital recovery. This allowance can be deducted from current revenue and other credits within the capital account. For example, if the CRF is .5, the lessee effectively adds another 50% of all allowable costs to the capital account. Once the capital recovery period is closed, it cannot be re-opened, and the lessee no longer is eligible for the allowance for capital recovery. However, the overhead allowance then changes to 10 percent.

The lessee is required to maintain an NPSL capital account. The capital account balance represents the cumulative total of all costs and credits received over the life of the lease. When companies enter into NPSL agreements, they agree to submit reports required by 30 CFR 220.031. There are no specific formats required for these reports.

All information submitted is taken directly from the lessee's own records. No unique information is required. Currently, annual reports are received for 5 leases in the Gulf of Mexico. An additional 17 leases, all in the Gulf of Mexico, are producing leases for which monthly reports are submitted. Royalties are paid on six producing leases that are "profitable."

Royalty payments are made based on the individual lease's net profit share rate, multiplied by the credit balance (revenues and other credits, less costs). MMS uses the data submitted in the annual and monthly reports to verify costs, revenues or credits, and royalty payments due. No royalties are paid until the lessee recovers its exploration and development expenses. MMS auditors use information provided in the reports to perform trend analysis (volume, value, revenue and expense alignment with third party documentation, math verification), and to predict earliest payout status for each lease. Failure to submit the information by lessees could result in the loss of royalty payments to the Federal Government.

The last OCS lease sale involving NPSLs was in August 1983. A total of 209 leases, including 14 offshore Alaska leases and 51 offshore Atlantic leases, were issued from 1980 through 1983. Of those leases, 187 have terminated, expired, or been relinquished; 22 leases are still active.

3. Does the collection involve the use of information technology, does it reduce the burden, and to what extent?

The use of improved information technology is not applicable for this information collection. Companies involved in NPSL agreements use computers to maintain lease data. However, in view of the limited number of leases involved, and the differing and complex system designs, MMS has not attempted to interface the companies' systems with MMS systems. Our Government Paperwork Elimination Act Plan indicates that the use of information technology is not practicable because of the small number of reporters and the variety and complexity of computer programs used by the reporting companies.

4. Is the information duplicated by any other Federal agency and can similar information be used or modified for this collection?

Reports and other information are unique for the individual lease tract. Each lease is numbered for identification and a separate report must be filed for each lease. No other Government agency collects this information.

5. What is the agency doing to minimize the burden on small businesses or other small entities?

Due to the extremely difficult and expensive processes associated with deepwater exploration and drilling, few small businesses were involved in the initial lease acquisitions. However, a few small businesses now own leases through purchases from larger companies or operate leases

through farmouts. There are no special provisions for mitigating reporting requirements for small businesses.

6. What are the consequences to the Federal program or policy activity if the information is not collected or is collected less frequently; and are there any technical or legal obstacles to reducing the burden?

MMS is required by law to gather this information. Title I of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1711) requires that the Secretary “. . . establish a . . . system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and to collect and account for such amounts in a timely manner.” By regulation, the lessee must submit either annual or monthly reports. Less frequent collection of information not only places the lessees in noncompliance with the regulations, but it may also result in loss of royalty payments to the Government.

7. Are there any special circumstances that require exceptions to 5 CFR 1320.5(d)(2) requiring respondents to: (i) report more often than quarterly, (ii) prepare written responses in fewer than 30 days after receipt, (iii) submit more than an original and two copies of any document, or (iv) retain records for more than 3 years?

This collection of information is consistent with these provisions at 5 CFR 1350.5(d)(2) except for:

- (i) Beginning the first month in which production revenues are credited to the NPSL capital account, each lessee is required by 30 CFR 220.031(b) to file a monthly report. Failure to provide this information monthly could result in loss of the net profit share payment due the United States for the period covered by the report.

There are no special circumstances with respect to 5 CFR 1320.5(d)(2)(v) through (viii), as the collection is not a statistical survey and does not use statistical data classifications; nor does it include a pledge of confidentiality not supported by statute or regulation or require proprietary, trade secret, or other confidential information not protected by agency procedures.

8. What efforts did the agency make to consult with the public and a representative sample of respondents?

As required in 5 CFR 1320.8(d), MMS published in the Federal Register a 60-day review and comment notice on February 19, 2002 (67 FR 7394) (Attachment 2). We did not receive any comments in response to this notice. Also, rather than providing formal training seminars, we have found it more helpful for both the respondents and for us to maintain regular and routine contact with the respondents on these 22 leases as they file either their annual or monthly reports. We provide telephone assistance over toll-free lines, answering questions from lessees regarding NPSL regulations, and responding to other concerns respondents have with information submitted. Since NPSL leases require constant monitoring and are ongoing,

numerous contacts have been developed and maintained over many years. The rapport built over the years of contact allows lessees the opportunity to discuss any concerns they may have about the information collection.

9. Will payment or gifts be provided to respondents?

No payments or gifts will be provided to the respondents.

10. What assurance of confidentiality is provided to respondents?

Commercial or financial information provided to MMS relative to minerals removed from Federal leases may be proprietary. Trade secrets, proprietary, and other information shall be protected in accordance with standards established by the Outer Continental Shelf Lands Act (43 U.S.C. 1352(c)), the Freedom of Information Act (5 U.S.C. 552(b)(4)), and Department of the Interior regulations (43 CFR 2). Storage of proprietary information and access to it is controlled by strict security measures.

11. Does the information collected include any questions of a sensitive nature?

None of the information requested is considered sensitive.

12. What is the estimated reporting and recordkeeping “hour” burden?

The annual reporting burden for this information collection is 3,674 hours. Twelve companies submit reports on a total of 22 OCS leases. MMS subject matter experts estimate that about 16 hours are required per report to extract from company records the data required by 30 CFR 220.031. Annual reports are required on 5 leases and monthly reports are required on 17 leases. Information required to complete these reports comes from records maintained by the companies for their own use. Only a minimal recordkeeping burden would be imposed annually by this collection of information. Using \$50 per hour, we estimate the cost to industry is \$183,700.

The calculations for the estimated annual burden of 3,674 hours are as follows:

Section	Reporting or Recordkeeping Requirement	Burden hours per response	Annual number of responses	Annual burden hours
220.010(a) 220.030(a)	For each NPSL tract, an NPSL capital account shall be established and maintained by the lessee for NPSL operations. Each lessee * * * shall establish and maintain such records as are necessary * * *	1	22	22
220.031(a)	Each lessee * * * shall file an annual report during the period from issuance of the NPSL until the first month in which production revenues are credited to the NPSL capital account.	16	5	80
220.031(b)	Beginning with the first month in which production revenues are credited to the NPSL capital account, each lessee * * * shall file a report for each NPSL, not later than 60 days following the end of each month.	16	204*	3,264
220.031(d)	Each lessee * * * shall file a report not later than 90 days after each inventory is taken * * *	8	22	176
220.031(e)	Each lessee * * * shall file a final report, not later than 60 days following the cessation of production * * *	2	22	44
220.033(b)(1)	When non-operators of an NPSL lease call an audit in accordance with the terms of their operating agreement, the Director shall be notified of the audit call * * *	2	22	44
220.033(b)(2)	If DOI determines to call for an audit, DOI shall notify the lessee of its audit call and set a time and place for the audit * * *. The lessee shall send copies of the notice to the non-operators on the lease.	2	22	44
Total			319	3,674

* 17 leases X 12 months

13. What is the estimated reporting and recordkeeping “non-hour” cost burden of the collection of this information, excluding any costs identified in Items 12 and 14?

We have identified no reporting or recordkeeping “non-hour” cost burdens for this collection of information.

14. What is the annualized cost to the Federal Government?

Annualized cost to the Federal Government is estimated to be \$12,000. Of the 22 active leases, monthly reports are submitted for 17. One operator of the remaining 5 leases submits annual reports. The tracking and maintenance of all received reports requires approximately 20 hours per month. Using \$50 per hour, we estimate the cost is \$12,000 (20 hours x 12 months x \$50).

15. Is the agency requesting any program changes or adjustments reported in Items 13 and 14 of the Form OMB 83-I?

The currently approved hours in OMB's inventory in Item 13 are increased from 2,946 to 3,674 hours. This increase (adjustment) of 728 hours is a re-estimate of the number of responses we expect to receive from NPSL lessees. In Item 14, there are no costs.

16. Are there plans for tabulation and publication of the results of the information collection?

The data collected will not be published for statistical use.

17. Is the agency seeking approval to not display the expiration date?

MMS is not seeking an exemption to display the expiration date.

18. Is the agency requesting exceptions to the certification statement in item 19 of Form OMB 83-I?

To the extent the topics apply to this collection of information, we are not requesting exceptions to the "Certification of Paperwork Reduction Act Submissions."

B. Collection of Information Employing Statistical Methods

This section is not applicable. We will not employ statistical methods in this information collection.